

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the Application of Amar Lulla

Confirmation No.: 8297

Serial No.: 10/525,7363

Group Art Unit No.: 1617

Filed: June 6, 2005

Examiner: Jean-Louis, Samira JM

For: PHARMACEUTICAL PRODUCTS AND COMPOSITIONS COMPRISING
SPECIFIC ANTICHOLINERGIC AGENTS, β 2 AGONISTS AND
CORTICOSTEROIDS

RESPONSE TO RESTRICTION REQUIREMENT

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

In response to the Restriction Requirement dated September 23, 2008, Applicants elect the Group I invention, i.e. claims 1-26 with traverse. Additionally, in response to the Election of Species, Applicant elects the combination of this fluticasone, salmeterol and tiotropium (combination (xii) of the present claims). In addition, with regard to the further election of presence or absence of additional components (in regards to claims 10, 11, and 13) Applicants elects the absence of additional components.

Applicants note that the Examiner is of the view that McNamara et al (U.S. Patent 6,423,298) teaches a combination of 2 or more active substances and on such basis no special technical features were found to exist resulting in the Restriction Requirement.

However the examiner is in error, because this document is concerned with formulations containing 2 active (only) ingredients see Paragraph 0011. The only specific combinations disclosed contain only 2 active ingredients (salbutamol sulphate and ipratropium bromide-paragraph 0021 and the examples, a third active component is not present. The other active components mentioned in the document are given merely

as a list of alternatives and there is no teaching or suggestion to use them in any particular combination. Thus the document does not anticipate any of the claims and thus the restriction based on purported anticipation is erroneous. Therefore, reconsideration and withdrawal of the restriction is requested.

The Director is hereby authorized to charge any deficiency in the fees filed, asserted to be filed or which should have been filed herewith (or with any paper hereafter filed in this application by this firm) to our Deposit Account No. 14-1437, under Order No. 8696.006.US0000

Respectfully submitted,

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